THE HONOURABLE SRI JUSTIVE C.V. RAMULU

WRIT PETITION NO. 1513 OF 2002

DATED: 18-12-2006

BETWEEN:

Nalma Venkat Reddy,
S/o. late Pichi Reddy and another

... Petitioners

And

A.P.State Irrigation Development Corporation Ltd.,
Rep.by Dy. Executive Engineer,
I.I. Sub Division, Miryalaguda, Nalgonda District
And four others

... Respondents

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WRIT PETITION NO. 1513 OF 2002

ORDER:

This writ petition is filed seeking a Mandamus declaring the orders passed by the 3rd respondent in proceedings No.G/1153/98 dated 30-11-2001 as arbitrary and illegal and consequently to direct respondents 1 to 4 to restore field channel to the land of the petitioners covered by Sy.No.286 situated at Anantaram village, Penpahad Mandal, Nalgonda District.

In spite of service of notice, none appears for the 5th respondent, nor there is any representation.

Heard the learned counsel for the petitioners and the learned Government Pleader for the 1st respondent-Corporation and the learned Government Pleader for Irrigation and perused the entire material made available

on record.

There is no necessity to go into all the details. It appears that as per the directions of this Court in earlier writ petition i.e. W.P.
No.8643/99 dated 15-03-2001, the Revenue Divisional Officer, Suryapet conducted an enquiry and passed orders stating that the 5th respondent should allow the field channel from his land in S.No.287 to the fields of the petitioners in S.No.286 and similarly, the petitioners in S.No.286 should allow the bund in their lands to be used by the 5th respondent for movement of cattle and other agricultural implements to his field i.e., S.No.286.

Learned counsel for the petitioners states that while disposing of the matter as per the directions of this Court, there was no necessity for the Revenue Divisional Officer to decide as to the private dispute between the parties with regard to allowing of the cattle of the 5th respondent herein through the bund created in the lands of the petitioners.

According to the learned counsel for the petitioners, this is purely a private arrangement, which the 3rd respondent-Revenue Divisional Officer ought not to have gone into. It is not the case of the 5th respondent, whether an easementary right was also created and therefore, the same shall be allowed to be enjoyed by him.

It appears that during the course of enquiry, as per the directions of this Court, the 5th respondent represented before the 3rd respondent-Revenue Divisional Officer that

the cattle and other agricultural implements have to be moved to his field from the lands of the petitioners, but the petitioners have not been allowing him to use the lands in Survey No.287 to enter into his lands in Sy.No.286 so as to move his cattle and other material from distant place. It is not the case of the 5th respondent that there is no other way to enter their lands. He simply says that it is at a little distant place. May be at a little distant place, but that itself does not create any right for the 5th respondent to take his cattle through the lands of the petitioners. For any reason, if the 5th respondent is entitled for any such right, he has to agitate the same separately before an appropriate forum and work out his remedies.

I am in full agreement with the submission made by the learned senior counsel appearing for the petitioners - Mr. S.S. Prasad that while deciding the matter as per the directions of this Court, this aspect was never referred to the Revenue Divisional Officer for his decision. Therefore, the order passed by the Revenue Divisional Officer to the extent of allowing the lands of the petitioners to be used by the 5th respondent for movement of his cattle and other material implements to his fields i.e. in Sy.No.287 is set aside. The rest of the order stands unaltered.

The Writ Petition is allowed to the extent indicated above. No costs.

18-12-2006.

Rns.

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